

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

WP(C).No. 17773 of 2007(N)

PETITIONER: PETITIONER

M/S.CLUB TRADERS, MULLACAL,
ALAPPUZHA. REP.BY ITS
PROPRIETOR,SHRI.G.ANILKUMAR.

BY ADV. SRI.JOY THATTIL

RESPONDENTS: RESPONDENTS

1. THE COMMECIAL TAX OFFICER
(AUDIT ASSESSMENT),
OFFICE OF THE ASST. COMMISSIONER (AUDIT ASSESSMENT)
COMMERCIAL TAXES, KALLUPALAM., ALAPPUZHA.
2. THE COMMISSIONER OF THE COMMERCIAL TAX,
TRIVANDRUM.

BY ADV. SHRI.C.K.GOVINDAN, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 24/07/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(C) No. 17773/2007

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF THE NOTICE NO.32040686035/AA/05-06 DATED 27/04/2007
ISSUED BY THE 1ST RESPONDENT.

P2 : COPY OF THE REPLY ISSUED BY THE PETITIONER TO THE 1ST RESPONDENT.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 17773 of 2007

Dated, this the 24th day of July, 2007

J U D G M E N T

Petitioner is challenging Ext.P1 whereunder the assessing officer has demanded high rate of tax for white oats. According to the petitioner, the product is not to be taxed by virtue of Entry 12 (3) of the Kerala VAT Act. Learned Government Pleader submitted that assessing officer has only collected the turn over details for issuing Ext.P1. In any case, before demanding tax, 1st respondent has to consider petitioner's objections, if any raised, and issue an order justifying the demand. This writ petition is, accordingly, disposed of directing 1st respondent to consider petitioner's claim for exemption under Entry 12(3) of the Kerala VAT Act after hearing petitioner and pass fresh orders within a period of one month from now. As and when fresh orders are issued 1st respondent will recall Ext.P1. No recovery shall be made against the petitioner for recovering differential tax until fresh orders are issued by the 1st respondent as directed above.

(C.N.RAMACHANDRAN NAIR, JUDGE)